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To: Stephen R. Crow – UNITED STATES PATENT AND TRADEMARK OFFICE  
ART UNIT 3764

Fax No.: 1-703-872-9306

No. of Pages: 16 (incl. this page)

From: David B. Dellenbach

Date: November 9, 2004

File No./Subject: SECOND SUBMISSION OF PETITION UNDER 37 C.F.R. § 1.181 TO  
WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO  
RECEIVE OFFICE ACTION

Patent Application

Serial No.: 09/943,741

Filed: August 30, 2004

Title: ELLIPTICAL EXERCISE DEVICE WITH LEAF  
SPRING SUPPORT

Our File: 13914.741

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VIA FACSIMILE (703) 872-9306

PATENT APPLICATION  
Docket No. 13914.741

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of:

Watterson et al.

Serial No.: 09/943,741

Filed: August 30, 2004

Confirmation No.: 8528

For: ELLIPTICAL EXERCISE DEVICE WITH LEAF SPRING SUPPORT

Examiner: Stephen R. Crow

NOV 09 2004

Art Unit  
3764CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the following documents are being filed with the U.S. Patent and Trademark Office via facsimile to Attn: Stephen R. Crow, Examiner U.S. Patent and Trademark Office, facsimile number: 1-703-872-9306 this 7 day of November, 2004:

- Second Submission Of Petition Under 37 C.F.R. § 1.181 To Withdraw Holding of Abandonment Based On Failure To Receive Office Action (1 page)
- Transmittal of Second Submission of Petition Under 37 C.F.R. § 1.181 To Withdraw Holding of Abandonment Based on Failure to Receive Office Action (1 page)
- Petition Under 37 C.F.R. § 1.181 To Withdraw Holding of Abandonment Based on Failure To Receive Office Action (12 pages)

Respectfully submitted,



David B. Dellenbach  
Attorney for Applicants  
Registration No. 39,166  
Customer No. 022913  
Telephone No. (801) 533-9800

AD0000000174V001

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VIA FACSIMILE (703) 308-5065

PATENT APPLICATION

Docket No. 13914,741

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of

Watterson, et al.

Serial No.: 09/943,741

Filed: August 30, 2001

Conf. No.: 8528

For: ELLIPTICAL EXERCISE DEVICE WITH LEAF  
SPRING SUPPORTS

Examiner: Stephen R. Crow

**TRANSMITTAL FOR PETITION UNDER 37 C.F.R. § 1.181**  
**TO WITHDRAW HOLDING OF ABANDONMENT**  
**BASED ON FAILURE TO RECEIVE OFFICE ACTION**

VIA FACSIMILE (703) 308-5065

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Enclosed herewith for filing is a PETITION UNDER 37 C.F.R. § 1.181 TO

WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE

ACTION in the above-identified patent application.

Dated this 21 day of October 2004.

Respectfully submitted,



David B. Dellenbach  
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\* Admitted only in California

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PATENT APPLICATION

Docket No. 13914.741

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NOV 09 2004

In re application of

Watterson, et al.

Serial No.: 09/943,741

Filed: August 30, 2001

Conf. No.: 8528

For: ELLIPTICAL EXERCISE DEVICE WITH LEAF  
SPRING SUPPORTS

Examiner: Stephen R. Crow

Art Unit  
3764

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 OF COUNSEL

**TRANSMITTAL FOR PETITION UNDER 37 C.F.R. § 1.181**  
**TO WITHDRAW HOLDING OF ABANDONMENT**  
**BASED ON FAILURE TO RECEIVE OFFICE ACTION**

VIA FACSIMILE (703) 308-5065

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Enclosed herewith for filing is a PETITION UNDER 37 C.F.R. § 1.181 TO

WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE

ACTION in the above-identified patent application.

Dated this 21 day of October 2004.

Respectfully submitted,

David B. Dellenbach  
 Attorney for Applicants  
 Registration No. 39,166  
 Customer No. 022913

FILED VIA FACSIMILE (703) 308-5056

PATENT APPLICATION  
Docket No. 13914.741

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Watterson, et al.

Serial No.: 09/943,741

Filed: August 30, 2001

Confirmation No. 8528

For: ELLIPTICAL EXERCISE DEVICE WITH LEAF  
SPRING SUPPORT

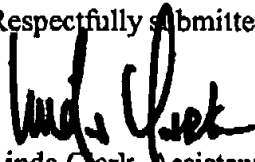
Examiner: Stephen R. Crow

Art Unit  
3764CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the following documents are being filed with the U.S. Patent and Trademark Office via facsimile to Attn: Blanche May - Image Assistance Center, Examiner U.S. Patent and Trademark Office, facsimile number: (703) 308-5056 this 21 day of October, 2004:

- Transmittal for Petition Under 37 C.F.R. § 1.181 to Withdraw Holding of Abandonment Based on Failure to Receive Office Action (1 page) (in duplicate)
- Petition Under 37 C.F.R. § 1.181 to Withdraw Holding of Abandonment Based on Failure to Receive Office Action Amendment After Notice of Allowance Under 37 C.F.R. § 1.312 (2 pages)
- Copy of Notice of Abandonment (3 pages)
- Copy of Docket Record (2 pages)

Respectfully submitted,

Linda Clark, Assistant to  
David B. Dellenbach

Attorney for Applicants

Registration No. 39,166

Customer No. 022913

Telephone No. (801) 533-9800

LC0000001777V001

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To: Blanche May (Image Assistance Center) UNITED STATES PATENT AND TRADEMARK OFFICE

Fax No.: (703) 308-50<sup>65</sup>~~56~~

No. of Pages: 11 (incl. this page)

From: David B. Dellcnbach

Date: October 21, 2004

File No./Subject: **PETITION UNDER 37 C.F.R. § TO WITHDRAW HOLDING OF  
ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION**  
Patent Application  
Serial No.: 09/943,741  
Filing Date: August 30, 2001  
Title: ELLIPTICAL EXERCISE DEVICE WITH LEAF SPRING SUPPORT  
Our File: 13914.741

**Applicants request that copies of the Notice of Allowance and Notice of Allowability  
be sent to Applicants' counsel.**

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To: Blanche May (Image Assistance Center) UNITED STATES PATENT AND TRADEMARK OFFICE

Fax No.: (703) 308-50<sup>65</sup>~~56~~No. of Pages: 11 (incl. this page)

From: David B. Dellenbach

Date: October 21, 2004

File No./Subject: **PETITION UNDER 37 C.F.R. § TO WITHDRAW HOLDING OF  
ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION**

Patent Application

Serial No.: 09/943,741

Filing Date: August 30, 2001

Title: ELLIPTICAL EXERCISE DEVICE WITH LEAF SPRING SUPPORT

C. P. No. 10014741



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,741	08/30/2001	Scott R. Watterson	13914.741	8528
22913	7590	10/12/2004	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			CROW, STEPHEN H	
			ART UNIT	PAPER NUMBER
			3764	
DATE MAILED: 10/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

APPROVED  
By: [Signature] Date: 12/12/04  
By: [Signature] Date: 12/28/04  
By: [Signature] Date: 12/28/04



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark OfficeAddress: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/943,741

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

## NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
- ☐ A reply (with Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_ which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
- ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.
- ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85) (or Notice of Publication Fee Due).
- ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required, by 37 CFR 1.18(d) is \$\_\_\_\_\_.
- ☒ The issue fee and publication fee, if applicable, have not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below: \_\_\_\_\_

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to

## **Attachment to Notice of Abandonment**

**For questions concerning the notice contact**

**Office of Patent Publication**

**Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:  
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

### **Respond to the Notice of Abandonment by one of the following:**

- 1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing, 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

- 2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

- 3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

**Note:** Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment

**Country Application**

Thursday, October 21, 2004 Page: 1

**Docket No:** 13914.741**Country:** US**SubCase:****Client:** Icon Health & Fitness, Inc**United States of America****Attorneys:** RIC DEL**File Number:** 13914.741**Case Type:** ORD**Application Status:** Published**Application Number:** 09/943741**Filing Date:** 30-Aug-2001**Publication Number:** 0045401-A1**Publication Date:** 06-Mar-2003**Patent Number:****Issue Date:****Parent/PCT Number:****Parent/PCT Date :****Parent Patent Number:****Parent Issue Date :****Tax Schedule:** LE**Expiration Date:****Terminal Disclaimer:****Confirmation Number:** 8528**Patent Term Adjustment:** 0**Agent:****Agent Reference #:****Application Title:** Elliptical Exercise Device with Leaf Spring Supports

**Country Application**

Thursday, October 21, 2004

Page: 2

**List Of Actions**

Action(s) Due	Duc Date		Action Taken
Claim Priority Warning	13-Sep-2001	Reminder	02-Nov-2001
Claim Priority Reminder	27-Sep-2001	Reminder	02-Nov-2001
Claim Priority Due	30-Oct-2001	Due Date	02-Nov-2001
IDS Reminder	30-Oct-2001	Reminder	27-Nov-2001
Information Disclosure Stmt	30-Nov-2001	Due Date	27-Nov-2001
MISSING PARTS	04-Dec-2001	Due Date	19-Oct-2001
Send standard letter	28-Feb-2002	Due Date	27-Feb-2002
Verify with Brad	01-Mar-2002	Due Date	21-Mar-2002
Verify	01-Apr-2002	Duc Date	08-May-2002
Claim Priority Follow Up Date	02-May-2002	Due Date	02-Nov-2001
IDS Follow Up Date	27-May-2002	Due Date	27-Nov-2001
Foreign Filing 3 Mo. Reminder	30-May-2002	Reminder	06-Aug-2002
Verify	01-Jul-2002	Due Date	11-Jul-2002
Foreign Filing Due	30-Aug-2002	Due Date	06-Aug-2002
Status Check	30-Aug-2002	Due Date	21-Sep-2002
Verify with Bra Follow Up Date	11-Jan-2003	Duc Date	11-Jul-2002
Foreign Filing Follow Up Date	06-Feb-2003	Due Date	06-Aug-2002
Check Status	30-Aug-2003	Due Date	05-Sep-2003
RESPONSE	03-Dec-2003	Reminder	23-Mar-2004
Draft response	26-Dec-2003	Due Date	16-Mar-2004
RESPONSE	03-Jan-2004	Due Date	26-Feb-2004
2 month extension deadline	03-Mar-2004	Due Date	23-Mar-2004
EXT. RESPONSE	03-Mar-2004	Reminder	26-Feb-2004
EXT. RESPONSE	03-Apr-2004	Due Date	23-Mar-2004
check status	30-Aug-2004	Due Date	26-Nov-2003
Verify abandonment	26-Oct-2004	Due Date	
Verify abandonment	12-Dec-2004	Due Date	

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